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Attorneys for Defendant William Joseph Foote

FILED
AUG 28 2006
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES,

Plaintiff,

vs.

WILLIAM JOSEPH FOOTE,

Defendant.

Case No.: CR 06 00075 CW

APPLICATION AND ~~PROPOSED~~
ORDER FOR RULE 17(C) SUBPOENA
AND SUPPORTING DECLARATION
OF ISMAIL RAMSEY

I, Ismail Ramsey, declare the following to be true under threat of perjury:

1. I am a member of the California Bar and this Court in good standing and am attorney of record for William Joseph Foote in the above-entitled action;

2. I am informed by the defendant and believe, on the basis of this information, that Mr. Foote is unable to pay for expenses in connection with the duplication of the materials listed in the attached subpoenas;

3. I am familiar with the materials to be produced by the custodian of records in the attached subpoena. It is my professional judgment and opinion that the production of these materials is necessary to a full and fair trial for Mr. Foote, which is currently set for September 11, 2006;

4. On December 11, 2005, at approximately 5:45 pm, Richmond police officers and private security guards chased my client. At the end of the foot chase, law

Application, [Proposed] Order, and Declaration

1 enforcement personnel arrested Mr. Foote in front of 353 7th Street. Afterwards, they
2 recovered the gun at issue in this case in the backyard of that house. The gun was on the
3 ground in the open. The government has charged Mr. Foote with being a felon in
4 possession of a gun and theorizes that Mr. Foote threw the gun there during the chase.

5 5. I specifically seek disclosure of police records reflecting arrests and police
6 chases in the immediate area surrounding 353 7th Street, Richmond, CA for 72 hours
7 preceding Mr. Foote's arrest.

8 6. Specifically, I am informed and believe that there was a police chase and
9 arrest near 353 7th Street, Richmond, CA, (at the corner of Nevin Street) on the day prior
10 to Mr. Foote's arrest. The chase and/or arrest occurred on the same end of the block of
11 7th Street where Foote was arrested and where the gun at issue was found.

12 7. The arrest and chase during the prior day is exculpatory of Mr. Foote,
13 because it explains why someone other than him would have thrown/left a gun in the
14 backyard. Records of this arrest and/or chase and others in the area during the 72 hours
15 prior to Mr. Foote's arrest will be critical for an effective defense of Mr. Foote at trial.

16 8. I am informed and believe that the Richmond Police Department keeps
17 police records, including but not limited to Detail Call for Service Reports and
18 communications between officers and dispatchers, which evidence chases and arrests.
19 On May 3, 2006, undersigned counsel sent a letter to the Custodian of Records of the
20 Richmond Police Department requesting that they preserve such records regarding police
21 chases in the surrounding area of 353 7th Street for the period from December 8, 2005
22 through December 11, 2006 until at least August 31, 2006.

23 In light of the above, the defense respectfully moves the Court to order the
24 following:

25 1. The issuance of the attached subpoena for copies of all records, including
26 but not limited to Detail Call for Service Reports and communications between
27 officers and dispatchers, reflecting arrests or police chases within a two-block
28 radius of 353 7th Street between December 8, 2005 through December 11, 2006.

1 The relevant area is the area bounded by 5th Street, 9th Street, Bissell Avenue, and
2 Ripley Avenue.

3 2. That the costs of fees and expenses associated with production of the
4 materials so subpoenaed to be paid as if subpoenaed by the government;

5 3. That all responsive materials be produced to this Court before August 24,
6 2006.

7 I attest that the foregoing is true and correct under penalty of perjury of the laws of
8 the United States.

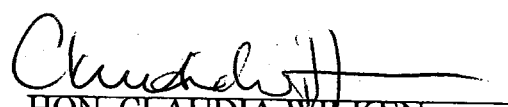
9 Dated: 8/17/06

Respectfully Submitted,
RAMSEY & EHRLICH LLP

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11 
12 ISMAIL RAMSEY
13 Attorney for Defendant William Foote
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15 Good cause having been shown, IT IS SO ORDERED, *as modified*
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17 Dated: AUG 28 2006

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20 HON. CLAUDIA WILKEN
21 United States District Judge
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ATTACHMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States

**SUBPOENA TO PRODUCE
DOCUMENTS OR OBJECTS
IN A CRIMINAL CASE**

V.

William Joseph Foote

Case Number: CR 06-00075 CW

TO:

Custodian of Records
Richmond Police Department

YOU ARE COMMANDED to produce at the place, date, and time specified the document(s) or object(s) indicated below. If compliance would be unreasonable or oppressive, you may file a motion requesting the court to quash or modify the subpoena, to review the documents *in camera*, or to permit production only pursuant to a protective order.

PLACE

☐ United States Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

☐ United States Courthouse
280 South First Street
San Jose, CA 95113

☒ United States Courthouse
1301 Clay Street
Oakland, CA 94612

COURTROOM/JUDGE

Hon. Claudia
Wilken

DATE AND TIME

9/1
August 24, 2006
at 9:00 am 10 am

If the document(s) or object(s) are produced in advance of the date specified, either to the court in an envelope delivered to the clerk's office or to the issuing attorney whose name and address appears below, no appearance is necessary.

The following document(s) or object(s) shall be produced:

See Attachment A

NOTE: Parties requesting a subpoena requiring the appearance of a witness to testify at a criminal proceeding or to testify and bring documents to a criminal proceeding, must use Form CAND 89A, *Subpoena to Testify in a Criminal Case*. Forms are available at the Court's Internet site: <http://www.cand.uscourts.gov>.

U.S. MAGISTRATE JUDGE OR CLERK OF COURT

Richard W. Wieking

(By) Deputy Clerk

Chubman



DATE

ATTORNEY NAME, ADDRESS AND PHONE NUMBER:

Ismail Ramsey, Ramsey & Ehrlich LLP (CA Bar # 189820)
803 Hearst Avenue
Berkeley, CA 94710
(510)548-3600

CAND 89B (Rev. 1/06) Subpoena to Produce Documents or Objects in a Criminal Case

PROOF OF SERVICE

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		FEEES AND MILEAGE TENDERED TO WITNESS <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$ _____
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

ADDITIONAL INFORMATION

Attachment A

A copy of any and all parts of the Richmond Police Department records reflecting arrests or police chases within a two-block radius of 353 7th Street between December 8, 2006 through December 11, 2006. The relevant area is that bounded by 5th Street, 9th Street, Bissell Avenue, and Ripley Avenue. *CW*

This subpoena compels disclosure of all materials described above, including but not limited to the following, with respect to any such relevant arrest or police chase:

1. Richmond Police Department or law enforcement incident reports gathered during the investigation;
2. All Computer Assisted Dispatch (CAD) tapes and reports gathered during the investigation;
3. All Detail Call for Service Reports;
4. All written statements from the officers involved;

Production of these materials in scanned .pdf format on a CD-rom disk or DVD-rom disk is acceptable.